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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,951	01/29/2004	Hubert Bucher	080404.53096US	1846
23911	7590	06/01/2006	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			DEVOTI, PAUL D	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,951	<b>Applicant(s)</b> BUCHER ET AL.	
	<b>Examiner</b> Paul Devoti	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species 2 (Container with additional surface elements in Figures 6a, 6b, 6c) in the reply filed on April 18, 2006 is acknowledged.
2. Claims 11-12 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 18, 2006.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "70b" has been used to designate both the inner shell and outer shell of the additional surface element in Figure 6a. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2, 3, 8, 10, 11, 15, 16, 18, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 (lines 3, 5, 10, 13, and 16), claim 2 (lines 2-3), claim 3 (line 3), claim 10 (line 3), claim 11 (line 2), claim 15 (line 2), claim 16 (line 2-3), claim 18 (line 3), and claim 19 (line 2) recite the phrase "basic container", which renders the claim indefinite, as there are many types of containers available, and no one would know what is "basic".

7. Claim 8 recites the limitation "folded-up side wall" in claim 8. There is insufficient antecedent basis for this limitation in the claim. It is earlier referred to as "folded-open side wall" in claim 1.

8. Claim 15 recites the limitation "the track" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 2, 4, 8, 13, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Serden (DE 10135266).

11. Regarding claims 1 and 4, Serden (DE 10135266) discloses a container (1) having a floor wall (2), a roof wall (3), and a foldable side wall (5). An expansion element (20) is movable out of the container (1). The expansion element (20) comprises a floor wall (25), a side open to the container (1), and a front wall (26) opposite the open side. A roof wall is formed from the foldable side wall (5). A lifting device in the form of a winch or hydraulic cylinders lowers the expansion element (20) so that the floors of the expansion element (20) and container (1) are situated at the same level.

12. Regarding claim 2, the container (1) comprises an additional side wall and expansion element (10) that is movable out of the container (1) with the lifting device, in an opposite direction from the first expansion element (20). The expansion element (20) is movable into the expansion element (10) as seen in Fig. 2.

13. Regarding claim 8, surface elements (28) close gaps between the expansion element (20) and the foldable side wall (5), creating an interior space.

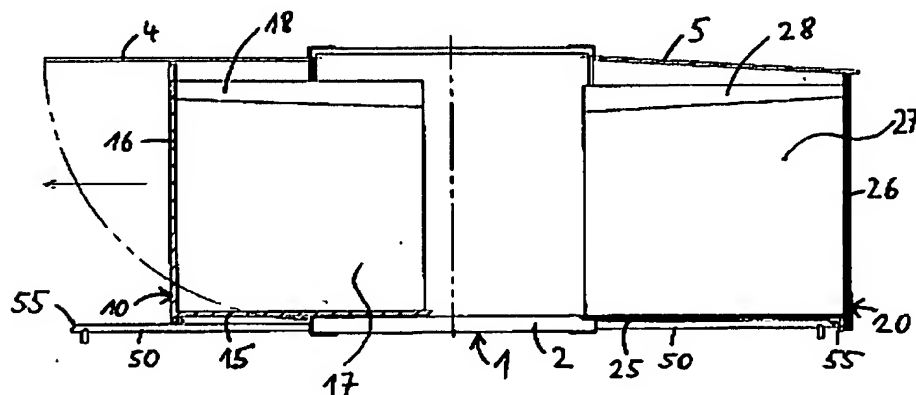
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14. Regarding claim 13, a surface element (28) is vertically movable with respect to the side wall (27).

15. Regarding claim 15, the surface element (28) is connected to the expansion element (20), and when the expansion element is moved out of the container (1) in a path via the track (50), the surface element (28) is also guided in a path via the track (50).

16. Regarding claims 16 and 20, the ends of the surface element (28) inherently seal via contact between the surface element (28) and the expansion element (20) or container (1).

17. Regarding claim 19, the surface element (28) is foldable away from the foldable side wall (5) of the container (1).

Fig. 3

Serden (DE 10135266) Figure 3

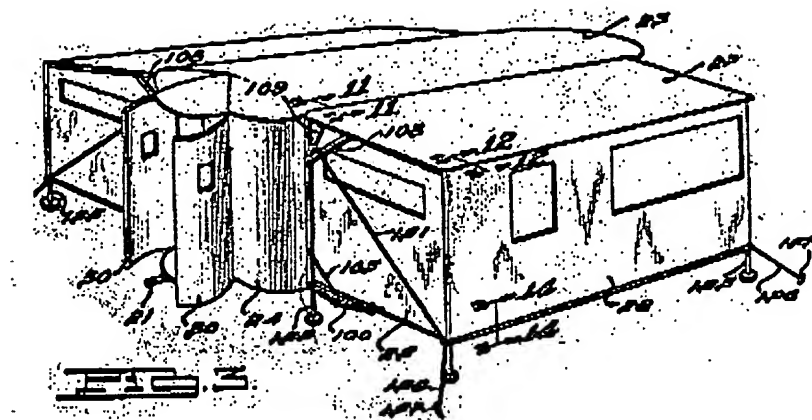
18. Claims 1, 3, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Stout (US 2167557).

19. Regarding claims 1 and 4, Stout discloses a container structure having a floor wall, a roof wall (23), and a foldable side wall (27). An expansion element is movable out of the structure. The expansion element comprises a floor wall (26), a side open to the structure, and a front wall (28) opposite the open side. A roof wall is formed from the foldable side wall (27). A lifting device (a winch device as seen in Fig. 16) lowers the expansion element so that the floors of the expansion element and container structure are situated at the same level.

20. Regarding claim 3, tracks (110) are provided on the foldable side wall (27) to guide the expansion element.

21. Regarding claim 7, the winch device (in Figure 16) comprises two cables (121 and 136) and helps move the expansion element into position.

22. Regarding claims 5 and 6, rollers (111) are attached to the expansion element and inherently act as traveling carriages which are guided in the track (110). As the rollers (111) move in the track (110), they help guide the expansion element out of the structure, which in turn guides the cables.



Stout (US 2167557) Figure 3

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

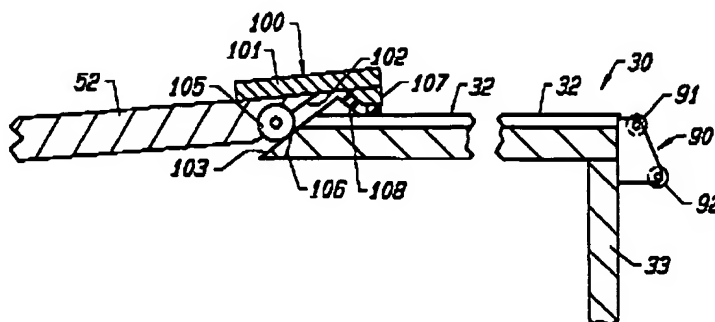
24. Claims 9, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Serden (DE 10135266) in view of Molina (US 5921033).

25. Regarding claims 9, 14, and 17, Serden (DE 10135266) discloses everything previously mentioned, but does not disclose the surface elements have a multi-shell construction. Molina, however, discloses an expandable structure having a surface element (100) with a multi-shell construction (101, 107). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the



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surface elements of Serden to have a multi-shell construction as taught by Molina, as the two layers would provide a better seal for the expansion elements of the container.

**FIG. 7**

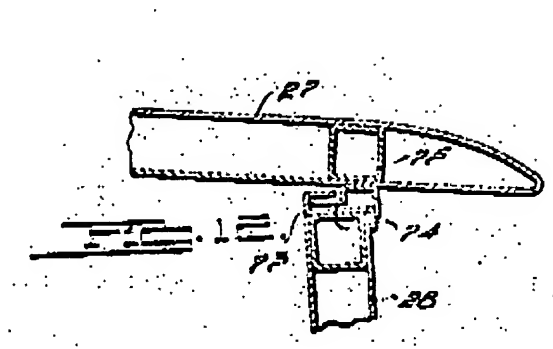
Molina (US 5921033) Figure 7

26. Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Serden (DE 10135266) in view of Molina (US 5921033) as applied to claims 9 and 17 above, and further in view of Stout (US 2167557).

27. Regarding claims 10 and 18, Serden in view of Molina discloses everything previously mentioned, but does not disclose a surface element rigidly fastened to the foldable side wall. Stout, however, discloses a trailer comprising a surface element (74) rigidly fastened to a foldable side wall (27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Serden's container, already modified by Molina, to include a surface element rigidly fastened to the foldable

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said wall, as taught by Stout to seal between a foldable side wall and an outer wall section.



Stout (US 2167557) Figure 12


### ***Conclusion***

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schimmang et al. (US 5732839) discloses a container having expansion elements that can be lowered so that the expansion elements and container are situated at the same level. Jurgensen (US 4689924) discloses an expandable container having an expansion element and a foldable side wall. Shook (US 6003919) discloses an expandable trailer having a foldable side wall and a track that moves the expansion element. Kuhn (2002/0179598) discloses a container having expansion elements and foldable side walls.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Devoti whose telephone number is 571-272-2733. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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